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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

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)
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Ruidoso, New Mexico)

) MM Docket No. 96-54
) RM-8769
)

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**REPLY COMMENTS
OF
MTD, Inc.**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Comes now **MTD, Inc.** ("MTD"), by Counsel, pursuant to the *Public Notice Report No. 2132 (released May 21, 1996)*, and hereby respectfully submits these Reply Comments in the above-captioned Rule Making proceeding. In support hereof, MTD submits the following:

1. In response to the *Notice of Proposed Rule Making* heretofore issued in this proceeding,¹ MTD submitted Comments and a Counterproposal seeking the allotment of Channel 268C to Cloudcroft, New Mexico, rather than the allotment of Channel 268A to Ruidoso, New Mexico. In reply, the original Petitioner (Kellie K. Brown) offered Channel 240C for Cloudcroft in order to maintain Channel 268A at Ruidoso.

2. MTD nonetheless continues its pursuit of Channel 268C or alternate Channel 244C at Cloudcroft, but not Channel 240C. The reason for this is simple: the Wofford electronics site that MTD identified in its Comments and Counterproposal was merely a hypothetical reference site for Channel 268C at Cloudcroft -- but not the actual intended transmitting site. MTD desires to provide service to Cloudcroft utilizing the Buck Mountain electronics site.

¹ See, DA 96-292, released March 21, 1996.

024

However, Channel 240C cannot be utilized at the Buck Mountain electronics site.

3. Attached hereto is a Technical Statement prepared by Jefferson G. Brock of Graham Brock, Inc., wherein it is demonstrated why the Buck Mountain site was not identified in MTD's Comments and Counterproposal, but that Channel 268C will work there for actual application purposes utilizing the Commission's §73.215 contour protection guidelines and requirements. Because of the severity of shortspacing to KSSR-FM (Santa Rosa, New Mexico), Channel 240C can not be utilized at MTD's desired site at Buck Mountain. Therefore, Mr. Brock has determined that Channel 240C is not an alternative channel for Cloudcroft.

4. In order to afford the Commission maximum flexibility in resolving these matters, MTD now presents two options for consideration: (1) the allotment of Channel 268C at Cloudcroft and the addition of Channel 240A at Ruidoso, or (2) the allotment of Channel 244C at Cloudcroft and the addition of either Channel 240A or 268A at Ruidoso. Under this scenario, both MTD and Kellie K. Brown may be satisfied.

5. Good cause exists for the acceptance of MTD's revised proposal, as set forth herein, since it will result in the resolution of this proceeding. The mere fact that an alternate channel may be allotted to Ruidoso is no bar to the ultimate acceptance of MTD's proposal. *See, Notice of Proposed Rule Making, Appendix at Paragraph 3(c) ("The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.")*.

WHEREFORE, the above premises considered, MTD respectfully requests that its Revised Counterproposal be ACCEPTED and that the Commission

AMEND §73.202 of the Commission's Rules, as follows:

-- OPTION #1 --

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>
Ruidoso, New Mexico	228C3	228C3, 240A
Cloudcroft, New Mexico	---	268C

- or -


-- OPTION #2 --

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>
Ruidoso, New Mexico	228C3	228C3, 240A or 268A
Cloudcroft, New Mexico	---	244C

Respectfully submitted,

MTD, Inc.

By:


Cary S. Tepper

Its Attorney

Booth, Freret & Imley, P.C.
1233 20th Street, N.W.
Suite 204
Washington, D.C. 20554

(202) 296-9100

June 5, 1996

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

TECHNICAL COMMENTS
MTD, INC.
MM DOCKET #96-54
ALLOT CHANNEL 268C
CLOUDCROFT, NEW MEXICO
June 1996

TECHNICAL EXHIBIT

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TECHNICAL COMMENTS
MTD, INC.
MM DOCKET #96-54
ALLOT CHANNEL 268C
CLOUDCROFT, NEW MEXICO
June 1996

TECHNICAL STATEMENT

1. This Technical Statement and attached exhibits were prepared on behalf of MTD, Inc. ("MTD"), who requests the allotment of Channel 268C to Cloudcroft, New Mexico. This proposal is in conflict with the proposed Channel 268A allocation to Ruidoso, New Mexico, as requested by Kelly K. Brown ("Brown"), the petitioner in Docket #96-54. These comments are in response to the Commission's Public Notice, Report #2132, dated May 21, 1996, regarding the submission of the MTD request for the allotment of Channel 268C at Cloudcroft.

2. Brown in her reply comments on the MTD counterproposal for Channel 268C at Cloudcroft offers Channel 240C as an alternative channel for Cloudcroft in order for her to maintain the proposed Channel 268A at Ruidoso. Based on the engineering information submitted with Brown's comments, Channel 240C could be utilized either at the proposed allocation site at Cloudcroft or at the Wofford site located just south of the community at an establish electronics site on Forest Service property.

DISCUSSION

3. MTD's proposal at Cloudcroft and the potential use of the Wofford electronics site was merely to demonstrate to the Commission that there was allocation area suitable for the channel and a potentially available site at which it could be located, since the majority of

Cloudcroft is located within the boundaries of the Lincoln National Forest. MTD did not intend to specify the Wofford site in an application for Channel 268C at Cloudcroft. Rather MTD proposes to use a site at Buck Mountain located north-northwest of Cloudcroft. Buck Mountain is another established electronics site. Had it been feasible to do so, MTD would have proposed the Buck Mountain electronics site as the hypothetical reference site for Channel 268C at Cloudcroft. Unfortunately, Channel 268C does not meet the Commission's minimum distance separation requirements to the construction permit for KLRX, Channel 268C1 at Clovis, New Mexico, from Buck Mountain (see Exhibit #1). It has been the intention of MTD to file an application specifying this location for Channel 268C invoking the Commission's §73.215 contour protection requirements in order to enable use of this site.¹ Both the Cloudcroft city center reference site and the Wofford site were provided to demonstrate that there is, in fact, a site available on forest service property for allocation purposes. It is not the site of choice for MTD for the purposes of an application for construction permit.

4. Brown's alternative channel, Channel 240C, at Cloudcroft, while able to be located at either the city center reference coordinates or the Wofford electronics site is irrelevant. MTD has reviewed the possibilities of using Channel 240C at its desired Buck Mountain location, but as can be seen on Exhibit #2, Channel 240C from the Buck Mountain site is shortspaced to KSSR-FM, Channel 240A, Santa Rosa, New Mexico. Because of the severity of the shortspace, Channel 240C could not be utilized at the Buck Mountain site under either §73.207 spacing requirements or under §73.215 contour protection regulations.² Therefore, Channel 240C is not an alternative channel for Cloudcroft.

1) Pursuant to §73.215(e) of the Commission's rules, co-channel stations (one Class C, the other Class C1) can be no closer than 249 kilometers in order to invoke the contour protection provisions of §73.215.

2) Pursuant to §73.215(e) co-channel stations (one Class A, the other Class C) can be located no closer than 203 kilometers in order to invoke §73.215 processing. The Buck Mountain site is 197.53 kilometers from KSSR-FM. Therefore, §73.215 cannot be applied to address this shortage.

5. MTD maintains its desire for the allotment of Channel 268C to Cloudcroft, New Mexico, at the hypothetical city center coordinates specified in its initial filing. Alternatively, MTD suggests that Channel 240A be allotted to Ruidoso, New Mexico, at the site suggested by Brown in her initial request for Channel 268A. Attached as Exhibit #3 is a \$73.207 allocation study which demonstrates Channel 240A at Ruidoso is in compliance with the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities. Utilizing Channel 240A at Ruidoso, MTD can specify the Buck Mountain site for Channel 268C at Cloudcroft, but it also allows for the allotment of a Class A channel to Ruidoso as requested by Brown.

6. As an additional alternative channel for consideration, MTD has determined that Channel 244C could be allotted to Cloudcroft in compliance with the Commission's minimum distance separation requirements at the desired Buck Mountain electronics site located north-northwest of Cloudcroft. Attached as Exhibit #4 is a \$73.207 spacing analysis which indicates that Channel 244C can be allotted to Cloudcroft with a site restriction of 49.5 kilometers north-northwest of the community to avoid shortspacing the proposed addition of Channel 245C at El Porvenir, Chihuahua, Mexico.³ While the site specified is slightly further north of Cloudcroft than necessary to alleviate the shortage to the proposed Mexican allotment, it is at a readily available electronics site at which MTD intends to file an application for a channel at

3) An analysis has been made and has verified this proposal (Channel 244C) is in accord with the 1992 Agreement between the United States of America and the United Mexican States relating to FM broadcast services in the band from 88 to 108 MHz. Based on Annex #1 of the Agreement, §1.2.1, Table #2, the proposed allocation of Channel 244C to Cloudcroft, New Mexico, is in compliance with all Mexican facilities. As demonstrated on Exhibit #4, the nearest Mexican facility is the proposed allocation of Channel 245C to El Porvenir, CH, which is 31.58 kilometers clear of the Channel 244C reference site at Cloudcroft.

Cloudcroft.⁴ As demonstrated on Exhibit #5, a 3.16 mV/m contour is delivered to Cloudcroft, New Mexico, from the Buck Mountain site.⁵

7. Therefore, MTD continues to support its proposal for the allotment of Channel 268C at Cloudcroft, New Mexico, and suggests the allocation of Channel 240A at Ruidoso, New Mexico, in lieu of Channel 268A. The alternative is the allotment of Channel 244C to Cloudcroft, New Mexico, in lieu of Channel 240C, as suggested by Brown.

Option #1:

Cloudcroft, New Mexico

<u>Present</u>	<u>Proposed</u>
None	268C

Ruidoso, New Mexico

<u>Present</u>	<u>Proposed</u>
228C3	228C3, 240A

Option #2:

Cloudcroft, New Mexico

<u>Present</u>	<u>Proposed</u>
None	244C

4) A site restriction of only 18.0 kilometers north of Cloudcroft is necessary to avoid shortspacing the proposed El Porvenir, CH allocation. However, since the majority of the area north of Cloudcroft is Forest Service property, a site was selected at a known available (and desired) established electronics site. Channel 244C cannot be implemented at the Wofford electronics site due to the shortage to Channel 245C at El Porvenir, CH.

5) The city grade contour is based on a Class C facility operating from Buck Mountain with 39.0 kilowatts at 888.5 meters height above average terrain. The antenna center of radiation above mean sea level is 3314.7 meters. This is equivalent to maximum Class C facilities.

Ruidoso, New Mexico

Present

Proposed

228C3

228C3, 240A or 268A

8. The foregoing Technical Statement and attached exhibits were prepared on behalf of MTD, Inc., by Graham Brock, Inc., its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. Information relating to FM allocations was extracted from the NTIA database as updated on May 31, 1996. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

**CLEARANCE STUDY FOR NEW FM STATION - CLOUDCROFT, NM
USING BUCK MOUNTAIN ELECTRONICS SITE AS REFERENCE**

REFERENCE	CLASS C	DISPLAY DATES
33 24 14 N		DATA 05-31-96
105 46 56 W	Current rules spacings	SEARCH 06-04-96
----- CHANNEL 268 -101.5 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD268	268C	Cloudcroft	NM	176.0	49.54	290.0	-240.46
AD	32 57 30	105 44 42	0.000 kW	0M	30.8	180.2	
MTD, Inc.							
>Mexican Concurrence Required - Counterproposal							
KLRX.C	268C1	Clovis	NM	64.3	264.59	270.0	-5.41
CP HN	34 24 31	103 11 15	60.000 kW	54M	164.4	167.8	
Thelese Broadcast International					BPH-931123MA		960314
KWQQ	266C	Hatch	NM	237.0	143.69	105.0	38.69
LI CN	32 41 35	107 04 06	100.000 kW	315M	89.3	65.3	
John E. Daniels					BLH-940415KD		
AL269	269B	Las Palomas	CH	222.8	253.72	215.0	38.72
AL	31 43 00	107 36 20	0.000 kW	0M	157.7	133.6	
KRZN	267A	Albuquerque	NM	333.9	206.22	165.0	41.22
LI CN	35 04 06	106 46 46	6.000 kW	100M	128.2	102.6	
Desert Media, Inc.					BLH-941027KA		
KZKL	269A	Rio Rancho	NM	342.6	208.34	165.0	43.34
LI CN	35 11 35	106 28 15	3.000 kW	30M	129.5	102.6	
AM-FM Communications, Inc.					BLH-860421KB		
KTAO.C	268C1	Taos	NM	2.1	315.58	270.0	45.58
CP CN	36 14 48	105 39 15	1.050 kW	861M	196.1	167.8	
Taos Communications Corporation					BPH-941230JB		960322

CHANNEL 268C SPACING STUDY

* NOTE : THE SHORTAGE TO KLRX CAN BE
ADDRESSED PURSUANT TO SECTION
73.215 OF THE COMMISSIONS RULES
IN AN APPLICATION (FCC FORM 301)
FOR CONSTRUCTION PERMIT.

EXHIBIT #1

TECHNICAL COMMENTS

MM DOCKET #96-54

MTD, INC.

ALLOT CHANNEL 268C

CLOUDCROFT, NEW MEXICO

June 1996

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

**CLEARANCE STUDY FOR NEW FM STATION - CLOUDCROFT, NM
USING BUCK MOUNTAIN ELECTRONICS SITE AS REFERENCE**

REFERENCE	CLASS C	DISPLAY DATES
33 24 14 N		DATA 05-31-96
105 46 56 W	Current rules spacings	SEARCH 06-04-96
----- CHANNEL 240 - 95.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD240	240C	Cloudcroft	NM	176.0	49.54	290.0	-240.46
AD	32 57 30	105 44 42	0.000 kW	0M	30.8	180.2	
	Kellie K. Brown				RMS809		960513
>Mexican Concurrence Required - Alternate Channel							
KSSRFM	240A	Santa Rosa	NM	28.4	197.53	226.0	-28.47
CP CN	34 57 50	104 44 56	3.000 kW	8M	122.8	140.5	
	Don R. Davis				BPH-910311JB		960322
KEND	293C1	Roswell	NM	90.9	98.59	41.0	57.59
LI CN	33 23 05	104 43 22	52.000 kW	41M	61.3	25.5	
	Sheila Roe				BLH-900611KF		
KPER	239C3	Hobbs	NM	106.4	257.03	176.0	81.03
LI HN	32 43 28	103 09 03	25.000 kW	78M	159.8	109.4	
	Arroyo Broadcasting Corp.				BLH-811118AM		
KLAQ	238C	El Paso	TX	200.3	189.98	105.0	84.98
LI CY	31 47 47	106 28 55	100.000 kW	424M	118.1	65.3	
	New Wave Communications, L.P.				BLH-7759		
KHEYFM	242C	El Paso	TX	200.3	189.98	105.0	84.98
LI CY	31 47 47	106 28 55	100.000 kW	424M	118.1	65.3	
	KHEY, Inc.				BLH-7752		

CHANNEL 240C SPACING STUDY

* NOTE : THE SHORTAGE TO KSER-FM CAN NOT
BE ADDRESSED PURSUANT TO SECTION
73.215 OF THE COMMISSIONS RULES
IN AN APPLICATION (FCC FORM 301)
FOR CONSTRUCTION PERMIT.

EXHIBIT #2

TECHNICAL COMMENTS

MM DOCKET #96-54

MTD, INC.

ALLOT CHANNEL 268C

CLOUDCROFT, NEW MEXICO

June 1996

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

**ALLOCATION STUDY FOR RUIDOSO, NEW MEXICO
USING CHANNEL 268A SITE AS REFERENCE**

REFERENCE	CLASS A	DISPLAY DATES
33 20 00 N		DATA 05-31-96
105 40 54 W	Current rules spacings	SEARCH 06-04-96
----- CHANNEL 240 - 95.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD240	240A	Ruidoso	NM	0.0	0.00	115.0	-115.00
AD	33 20 00	105 40 54	0.000 kW	0M	0.0	71.5	
		Kellie K. Brown			RM8769		960222
>Mexican Concurrence Required							
KEND	293C1	Roswell	NM	86.1	89.43	22.0	67.43
LI CN	33 23 05	104 43 22	52.000 kW	41M	55.6	13.7	
		Sheila Roe			BLH900611KF		
KSSRFM	240A	Santa Rosa	NM	25.1	200.28	115.0	85.28
CP CN	34 57 50	104 44 56	3.000 kW	8M	124.5	71.5	
		Don R. Davis			BPH-910311JB		960322
KHEYFM	242C	El Paso	TX	203.9	186.27	95.0	91.27
LI CY	31 47 47	106 28 55	100.000 kW	424M	115.8	59.0	
		KHEY, Inc.			BLH-7752		
KLAQ	238C	El Paso	TX	203.9	186.27	95.0	91.27
LI CY	31 47 47	106 28 55	100.000 kW	424M	115.8	59.0	
		New Wave Communications, L.P.			BLH-7759		

CHANNEL 240A ALLOCATION STUDY

**EXHIBIT #3
TECHNICAL COMMENTS
MM DOCKET #95-54
MTD, INC.
ALLOT CHANNEL 268C
CLOUDCROFT, NEW MEXICO
June 1996**

GRAHAM BROCK, INC.
BROADCAST TECHNICAL CONSULTANTS

**CLEARANCE STUDY FOR NEW FM STATION - CLOUDCROFT, NM
USING BUCK MOUNTAIN ELECTRONICS SITE AS REFERENCE**

REFERENCE	CLASS C	DISPLAY DATES
33 24 14 N	Current rules spacings	DATA 05-31-96
105 46 56 W	CHANNEL 244 - 96.7 MHz	SEARCH 06-04-96

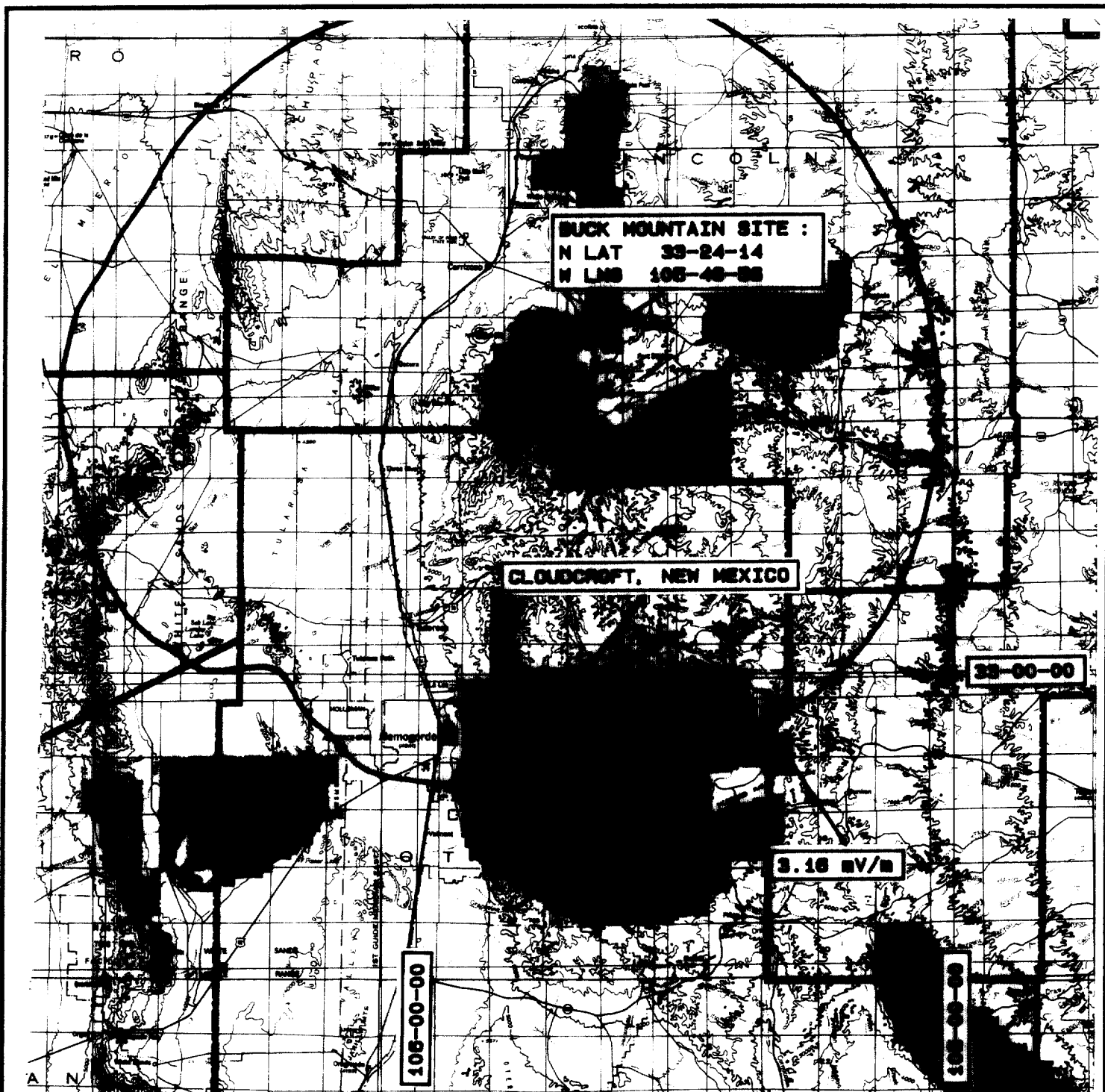
CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD244	244C	Cloudcroft	NM	0.0	0.0	290.0	-290.00
AD	33 24 14	105 46 56	0.000 kW	OM	0.0	180.2	
MTD, Inc.							
>Mexican Concurrence Required - Alternate Channel							
AD244	244A	Las Vegas	NM	11.8	249.09	226.0	23.09
AD	35 36 00	105 13 00	0.000 kW	OM	154.8	140.5	
William R. Sims						RM-8709	950925
KBCQ	246C1	Roswell	NM	90.3	130.52	105.0	25.52
LI CN	33 24 05	104 22 45	100.000 kW	110M	81.1	65.3	
Ardman Broadcasting Corporation						BLH-851224KD	
AD245	245C	El Porvenir	CH	179.1	259.58	228.0	31.58
AD N	31 04 10	105 44 15	0.000 kW	OM	161.3	141.7	
Mexican Proposal							
>Accepted by Commission 941026							
AL245	245B	Las Palomas	CH	222.8	253.72	215.0	38.72
AL	31 43 00	107 36 20	0.000 kW	OM	157.7	133.6	
KHEYFM	242C	El Paso	TX	200.3	189.98	105.0	84.98
LI CY	31 47 47	106 28 55	100.000 kW	424M	118.1	65.3	
KHEY, Inc.						BLH-7752	
KLMA	243A	Hobbs	NM	105.1	258.51	165.0	93.51
LI CN	32 46 11	103 07 04	3.000 kW	91M	160.7	102.6	
Ojeda Broadcasting, Inc.						BLH-940207KB	
AP243	243A	Texico	NM	64.3	264.59	165.0	99.59
AP HN	34 24 31	103 11 15	4.000 kW	54M	164.4	102.6	
James Stanford						BPH-950906MG	960517

CHANNEL 244C ALLOCATION STUDY

**EXHIBIT #4
TECHNICAL COMMENTS
MM DOCKET #96-54
MTD, INC.
ALLOT CHANNEL 268C
CLOUDCROFT, NEW MEXICO
June 1996**

GRAHAM BROCK, INC.

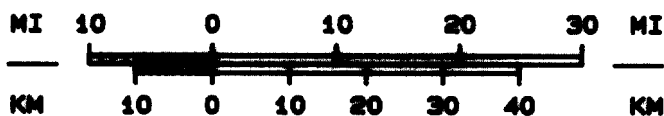
BROADCAST TECHNICAL CONSULTANTS



CITY GRADE COVERAGE DEPICTION

MAP IS A PHOTO REDUCED PORTION OF THE
1: 500,000 SCALE U.S.G.S. BASE MAP OF
NEW MEXICO.

EXHIBIT #5
TECHNICAL COMMENTS
MM DOCKET #96-54
MTD, INC.
ALLOT CHANNEL 268C
CLOUDCROFT, NEW MEXICO
June 1996



GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

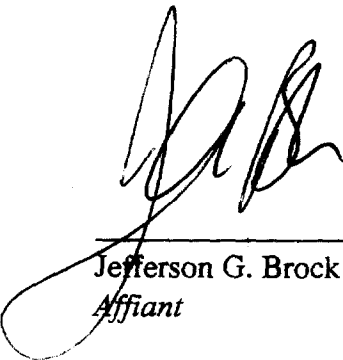
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by MTD, Inc., to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.


The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 4th day of June, 1996.



Jefferson G. Brock
Affiant

Sworn to and subscribed before me
this the 4th day of June, 1996



Notary Public, State of Georgia
My Commission Expires: September 12, 1999

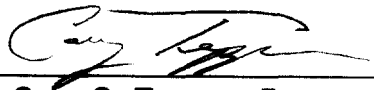
CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 5th day of June, 1996, I have served a copy of the foregoing "**Reply Comments of MTD, Inc.**" first-class, postage-prepaid, on the following:

*John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
2025 M Street, N.W.; Room 8010
Washington, D.C. 20554

Kellie K. Brown
P.O. Box 4396
Ruidoso, NM 88345
(Petitioner)

Vincent J. Curtis, Esq.
Fletcher, Heald & Hildreth
1300 North 17th St.; 11th Floor
Rosslyn, VA 22209-3801
(Counsel to Norbert Fritz)



Cary S. Tepper, Esq.

*/ indicates delivery by hand